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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS ^{Arizona Corporation Commission}
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TOM FORESE

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IN THE MATTER OF THE APPLICATION OF
LIBERTY UTILITIES (BLACK MOUNTAIN
SEWER) CORP., AN ARIZONA CORPORATION,
FOR AUTHORITY TO ISSUE EVIDENCE OF
INDEBTEDNESS IN AN AMOUNT NOT TO
EXCEED \$3,400,000.

DOCKET NO. SW-02361A-15-0206

IN THE MATTER OF THE APPLICATION OF
LIBERTY UTILITIES (BLACK MOUNTAIN
SEWER) CORP., AN ARIZONA CORPORATION,
FOR A DETERMINATION OF THE FAIR VALUE
OF ITS UTILITY PLANTS AND PROPERTY AND
FOR INCREASES IN ITS WASTEWATER RATES
AND CHARGES FOR UTILITY SERVICE BASED
THEREON.

DOCKET NO. SW-02361A-15-0207

PROCEDURAL ORDER
(Grants Motion to Modify Schedule)

BY THE COMMISSION:

On June 22, 2015, Liberty Utilities (Black Mountain Sewer) Corp. ("Liberty") filed with the Arizona Corporation Commission ("Commission"), in Docket No. SW-02361A-15-0206, an application requesting authority from the Commission to issue evidence of indebtedness in a total amount not to exceed \$3,400,000 ("Finance Docket").

Also on June 22, 2015, Liberty filed with the Commission, in Docket No. SW-02361A-15-0207, an application requesting that the Commission establish the fair value of its plant and property used for the provision of public wastewater utility service and, based on such finding, approve permanent rates and charges for utility service designed to produce a fair return thereon using a test year ending December 31, 2014 ("Rates Docket").

On June 23, 2015, Liberty filed Motions to Consolidate in both the Finance Docket and the Rates Docket. Liberty stated that, by consolidating both proceedings, resources would be better utilized as both dockets are "inextricably linked."

On July 6, 2015, by Procedural Order, the above captioned dockets were consolidated.

On July 15, 2015, Liberty filed an Amendment to its Application.

On July 16, 2015, the Commission's Utilities Division ("Staff") issued a Letter of Sufficiency stating that Liberty's rate application had met the sufficiency requirements of Arizona Administrative Code ("A.A.C.") R14-2-103 and that Liberty had been classified as a Class C utility.

On July 17, 2015, Residential Utility Consumer Office ("RUCO") filed an Application to Intervene.

On July 21, 2015, CP Boulders, LLC dba the Boulders Resort ("the Boulders") filed an Application to Intervene.

On July 31, 2015, by Procedural Order, the Boulders and RUCO were granted intervention. The Procedural Order also scheduled an evidentiary hearing to commence on January 12, 2016, and established procedural deadlines.

On August 12, 2015, Staff filed a Request for Modification of Procedural Schedule ("Request") stating that due to the complexity of the issues regarding rate design and plant closure, Staff requires additional time to process Liberty's application. Staff's Request also notes that Liberty, RUCO, and the Boulders have no objection to Staff's proposed procedural schedule. Staff requests the procedural schedule be modified as follows:

Direct Testimony Due	November 18, 2015
Rate Design Due	December 2, 2015
Rebuttal Testimony Due	December 22, 2015
Rejoinder Testimony Due	January 11, 2016
Prehearing	January 28, 2016
Hearing	February 1, 2016

Accordingly, Staff's Request is reasonable and should be granted. Further, it is appropriate to extend the time-frame to accommodate the Request, as well as extend the deadlines for intervention and objections to intervention.

IT IS THEREFORE ORDERED that the procedural schedule set forth in the July 31, 2015 Procedural Order is hereby vacated and the procedural schedule set forth herein shall govern these proceedings.

1 IT IS FURTHER ORDERED that the **hearing date in this matter is rescheduled to**
2 **commence on February 1, 2016, at 10:00 a.m.**, or as soon thereafter as is practical, at the
3 Commission's offices, 1200 West Washington Street, Hearing Room No. 1, Phoenix, Arizona 85007,
4 and shall continue, as necessary, at **9:30 a.m. on February 2, 2016**, and on such other dates as are
5 determined, if needed.

6 IT IS FURTHER ORDERED that a **pre-hearing conference shall be rescheduled for**
7 **January 28, 2016, at 10:00 a.m.**, at the Commission's offices.

8 IT IS FURTHER ORDERED that the **direct testimony, except rate design testimony, and**
9 **associated exhibits** to be presented at hearing on behalf of **Staff and intervenors** shall be reduced to
10 writing and filed on or before **November 18, 2015**.

11 IT IS FURTHER ORDERED that **rate design direct testimony** and associated exhibits to be
12 presented at hearing by **Staff and intervenors** shall be reduced to writing and filed on or before
13 **December 2, 2015**.

14 IT IS FURTHER ORDERED that the **rebuttal testimony and associated exhibits** to be
15 presented at hearing by **Liberty** shall be reduced to writing and filed on or before **December 22,**
16 **2015**.

17 IT IS FURTHER ORDERED that the **surrebuttal testimony and associated exhibits** to be
18 presented at hearing by **Staff or intervenors** shall be reduced to writing and filed on or before
19 **January 11, 2016**.

20 IT IS FURTHER ORDERED that the **rejoinder testimony and associated exhibits** to be
21 presented at hearing by **Liberty** shall be reduced to writing and filed on or before **January 26, 2016**.

22 IT IS FURTHER ORDERED that **all testimony** filed shall include a **table of contents** listing
23 the issues discussed.

24 IT IS FURTHER ORDERED that **all filings shall be made by 4:00 p.m.** on the date the
25 filing is due, unless otherwise indicated.

26 IT IS FURTHER ORDERED that **the parties shall prepare, jointly or individually, and**
27 **bring to the pre-hearing conference, copies of an issues matrix/matrices** setting forth all disputed
28

1 issues in the case, the position of each party on each disputed issue, whether the disputed issue
2 remains in dispute or has been resolved, and the manner in which it was resolved.

3 IT IS FURTHER ORDERED that **any objections to prefiled testimony or exhibits shall be**
4 **made before or at the January 28, 2016**, pre-hearing conference.

5 IT IS FURTHER ORDERED that **intervention** shall be in accordance with A.A.C. R14-3-
6 105, except that all motions to intervene must be filed on or before **October 30, 2015**.

7 IT IS FURTHER ORDERED that any **objections to intervention** shall be filed on or before
8 **November 20, 2015**.

9 IT IS FURTHER ORDERED that discovery shall be as permitted by law and the rules and
10 regulations of the Commission, except that until **December 4, 2015**, any objection to discovery
11 requests shall be made within 7 calendar days of receipt¹ and responses to discovery requests shall be
12 made within 10 calendar days of receipt. Thereafter, objections to discovery requests shall be made
13 within 5 calendar days and responses shall be made within 7 calendar days. The response time may
14 be extended by mutual agreement of the parties involved if the request requires an extensive
15 compilation effort.

16 IT IS FURTHER ORDERED that for discovery requests, objections, and answers, if a
17 receiving party requests service to be made electronically, and the sending party has the technical
18 capability to provide service electronically, service to that party shall be made electronically.

19 IT IS FURTHER ORDERED that, in the alternative to filing a written motion to compel
20 discovery, any party seeking resolution of a discovery dispute may telephonically contact the
21 Commission's Hearing Division to request a date for a procedural hearing to resolve the discovery
22 dispute; that upon such a request, a procedural hearing will be convened as soon as practicable; and
23 that the party making such a request shall forthwith contact all other parties to advise them of the
24 hearing date and shall at the hearing provide a statement confirming that the other parties were
25 contacted.²

26
27 ¹ The date of receipt of discovery requests is not counted as a calendar day, and requests received after 4:00 p.m.
Arizona time will be considered as received the next business day.

28 ² The parties are encouraged to attempt to settle discovery disputes through informal, good-faith negotiations before
seeking Commission resolution of the controversy.

1 IT IS FURTHER ORDERED that any **substantive corrections, revisions, or supplements**
2 **to prefiled testimony**, with the exception of rejoinder testimony, shall be reduced to writing and filed
3 no later than five calendar days before the witness is scheduled to testify.

4 IT IS FURTHER ORDERED that any motion filed in this matter, other than a motion to
5 intervene, that is not ruled upon by the Commission within 20 calendar days of the filing date of the
6 motion shall be deemed denied.

7 IT IS FURTHER ORDERED that any response to a motion, other than a motion to intervene,
8 shall be filed within five calendar days of the filing date of the motion.

9 IT IS FURTHER ORDERED that any reply related to a motion shall be filed within five
10 calendar days of the filing date of the response to the motion.

11 IT IS FURTHER ORDERED that **Liberty shall provide the following updated public**
12 **notice** of the hearing in this matter, in the following form and style, with the heading in no less than
13 12-point bold type and the body in no less than 10-point regular type:

14 **PUBLIC NOTICE OF HEARING ON THE**
15 **APPLICATIONS OF LIBERTY UTILITIES**
16 **(BLACK MOUNTAIN SEWER) CORP.**
FOR APPROVAL TO INCUR DEBT & FOR A RATE INCREASE
(DOCKET NOS. SW-02361A-15-0206 AND SW-02361A-15-0207).

17 **Summary**

18 On June 22, 2015, Liberty Utilities (Black Mountain Sewer) Corp. ("Liberty") filed
19 with the Arizona Corporation Commission ("Commission"), in Docket No. SW-
20 02361A-15-0206, an application requesting authority from the Commission to issue
21 evidence of indebtedness in a total amount not to exceed \$3,400,000 ("Finance
22 Docket"). Also on June 22, 2015, Liberty filed with the Commission, in Docket No.
23 SW-02361A-15-0207, an application requesting that the Commission establish the fair
value of its plant and property used for the provision of public wastewater utility
service and, based on such finding, approve permanent rates and charges for utility
service designed to produce a fair return thereon using a test year ending December
31, 2014 ("Rates Docket").

24 Liberty requests authorization to increase its rates to generate total revenues of
25 \$2,659,788. This would constitute an increase in revenues by \$417,940, or 18.75 per
26 cent over test year revenues of \$2,239,848. For information about how Liberty's
revenue increase would affect your individual bill, you may contact Liberty at
27 **[LIBERTY INSERT APPROPRIATE CONTACT INFORMATION HERE]**.

28 The Commission's Utilities Division ("Staff") is in the process of auditing and
analyzing the applications, and has not yet made any recommendations regarding

Liberty's proposed rate increase or financing application. The Commission will determine the appropriate relief to be granted based on the evidence of record in the proceeding. **THE COMMISSION IS NOT BOUND BY THE PROPOSALS MADE BY LIBERTY, STAFF, OR ANY INTERVENORS; THEREFORE, THE FINAL RATES APPROVED BY THE COMMISSION MAY DIFFER FROM AND MAY BE HIGHER OR LOWER THAN THE RATES REQUESTED BY LIBERTY OR RECOMMENDED BY OTHER PARTIES.**

How You Can View or Obtain a Copy of the Rate Proposal

Copies of the application and proposed rates are available from Liberty [LIBERTY INSERT HOW AND WHERE AVAILABLE] and at the Commission's Docket Control Center at 1200 West Washington, Phoenix, Arizona, for public inspection during regular business hours, and on the Internet via the Commission's website (www.azcc.gov) using the e-Docket function.

Arizona Corporation Commission Public Hearing Information

The Commission will hold a hearing on these matters beginning **February 1, 2016, at 10:00 a.m.**, at the Commission's offices Hearing Room No. 1, 1200 West Washington Street, Phoenix, Arizona 85007. Public comments will be taken on the first day of hearing.

Written public comments may be submitted by mailing a letter referencing Docket Nos. SW-02361A-15-0206/15-0207 to Arizona Corporation Commission, Consumer Services Section, 1200 West Washington, Phoenix, AZ 85007, or by submitting comments on the Commission's website (www.azcc.gov) using the "Submit a Public Comment" function. If you require assistance, you may contact the Consumer Services Section at 602-542-4251 or 1-800-222-7000.

About Intervention

The law provides for an open public hearing at which, under appropriate circumstances, interested persons may intervene. An interested person may be granted intervention if the outcome of the case will directly and substantially impact the person, and the person's intervention will not unduly broaden the issues in the case. Intervention, among other things, entitles a party to present sworn evidence at hearing and to cross-examine other parties' witnesses. However, failure to intervene will not preclude any interested person or entity from appearing at the hearing and providing public comment on the application or from filing written comments in the record of the case.

To request intervention, you must file **an original and 13 hard copies** of a written request to intervene with Docket Control, 1200 West Washington Street, Phoenix, AZ 85007, **no later than October 30, 2015**. You also **must** serve a copy of the request to intervene on each part of record, on the same day that you file the request to intervene with the Commission. Information about intervention and sample intervention requests are available on the Commission's website (www.azcc.gov) using the "Intervention in Utility Cases" link.

Your request to intervene must contain the following:

1. Your name, address, and telephone number and the name, address, and telephone number of any person upon whom service of documents is to be made, if not yourself;
2. A reference to **Docket Nos. SW-02361A-15-0206/15-0207**;

3. A short statement of your interest in the proceeding (e.g., a customer or potential customer of Liberty, a member or shareholder of Liberty, etc.) and how you will be directly and substantially affected by the outcome of the case, and why your intervention will not unduly broaden the issues in the case;
4. A statement certifying that a copy of the motion to intervene has been mailed to Liberty or its counsel and to all parties of record in the case; and
5. If you are not represented by an attorney who is an active member of the Arizona State Bar, and is not an individual representing himself or herself, information and any appropriate documentation demonstrating compliance with Arizona Supreme Court Rules 31, 38, and 42, as applicable.

The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except that all motions to intervene must be filed on or before October 30, 2015. If representation by counsel is required by Arizona Supreme Court Rule 31, intervention will be conditioned upon the intervenor obtaining counsel to represent the intervenor.

ADA/Equal Access Information

The Commission does not discriminate on the basis of disability in admission to its public meetings. Persons with a disability may request a reasonable accommodation such as a sign language interpreter, as well as request this document in an alternative format, by contacting the ADA Coordinator, Shaylin Bernal, E-mail SAbernal@azcc.gov, voice phone number 602-542-3931. Requests should be made as early as possible to allow time to arrange the accommodation.

IT IS FURTHER ORDERED that **Liberty shall, by September 18, 2015, send** a copy of the updated notice to each current customer by first class U.S. mail and have **the updated notice published** in a newspaper of general circulation in its service territory.

IT IS FURTHER ORDERED that **Liberty shall, by October 9, 2015, file certification of mailing and publication** of the updated notice.

IT IS FURTHER ORDERED that the time-frame to process this application is extended by 21 days.

IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized Communications) applies to this proceeding and shall remain in effect until the Commission's Decision in this matter is final and non-appealable.

IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules 31, 38, and 42 and A.R.S. § 40-243 with respect to practice of law and admission *pro hac vice*.³

³ If a corporation is not represented by an attorney authorized to practice law in Arizona in a proceeding before the Commission, an officer of the corporation may represent the entity as long as the board of directors has authorized such person to represent it in the matter and such representation is not the person's primary duty to the entity, but secondary or incidental to other duties relating to the management or operation of the entity, and such person is not receiving separate

1 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance
2 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Arizona
3 Supreme Court Rule 42). Representation before the Commission includes appearances at all hearings
4 and procedural conferences, as well as all Open Meetings for which the matter is scheduled for
5 discussion unless counsel has previously been granted permission to withdraw by the Administrative
6 Law Judge or the Commission.

7 IT IS FURTHER ORDERED that the time periods specified herein shall not be extended
8 pursuant to Rule 6(a) or (e) of the Rules of Civil Procedure.

9 IT IS FURTHER ORDERED that, as permitted under A.A.C. R14-3-107(B), **each party to**
10 **this matter may opt to receive service of all filings in this docket, including all filings by parties**
11 **and all Procedural Orders and Recommended Opinions and Orders/Recommended Orders**
12 **issued by the Commission's Hearing Division, via email sent to an email address provided by**
13 **the party rather than via U.S. Mail.** To exercise this option, a party shall:

- 14 1. Ensure that the party has a valid and active email address to which the party has
15 regular and reliable access ("designated email address");
- 16 2. Complete a Consent to Email Service form, available on the Commission's website
17 (www.azcc.gov);
- 18 3. File the original and 13 copies of the Consent to Email Service form with the
19 Commission's Docket Control, also providing service to each party to the service list;
- 20 4. Send an email, containing the party's name and the docket number for this matter, to
21 HearingDivisionServicebyEmail@azcc.gov from the designated email address, to
22 allow the Hearing Division to verify the validity of the designated email address;
- 23 5. Understand and agree that service of a document on the party shall be complete upon
24 the sending of an email containing the document to the designated email address,
25 regardless of whether the party receives or reads the email containing the document;
26 and

27
28 or additional compensation for such representation. See Arizona Supreme Court Rule 31(d)(13). The Commission
requires entities to docket evidence of board authorization.

6. Understand and agree that the party will no longer receive service of filings in this matter through First Class U.S. Mail or any other form of hard-copy delivery, unless and until the party withdraws this consent through a filing made in this docket.

IT IS FURTHER ORDERED that a party's consent to email service shall not become effective until a Procedural Order is issued approving the use of email service for the party. The Procedural Order shall be issued only after the party has completed steps 1 through 4 above, and the Hearing Division has verified receipt of an email from the party's designated email address.

IT IS FURTHER ORDERED that a party's election to receive service of all filings in this matter via email does not change the requirement that all filings with the Commission's Docket Control must be made in hard copy and must include an original and 13 copies.

IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

DATED this 19th day of August, 2015.


SASHA PATERNOSTER
ADMINISTRATIVE LAW JUDGE

Copies of the foregoing mailed/delivered
this 19th day of August, 2015 to:

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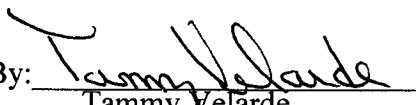
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1 COASH & COASH, INC.
2 Court Reporting, Video and
3 Videoconferencing
4 1802 North 7th Street
5 Phoenix, AZ 85006

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By: 
Tammy Velarde
Assistant to Sasha Paternoster